REMARKS

Reconsideration of this application, as presently amended, is respectfully requested. Claims 1-6 and 14-34 are now pending in this application, claims 7-13 having been cancelled and new claim 34 having been added by the present amendment. Claims 1-3 and 14 stand rejected. Claims 4-6 and 15-33 were withdrawn from consideration as being directed to a non-elected invention.

Rejections in View of the Prior Art

In the final Office Action mailed March 1, 2005, claims 1 and 14 were rejected under 35 U.S.C. §102(e) as being anticipated by **Yano et al.** (USP 6,701,732). Further, claims 2 and 3 were rejected under 35 U.S.C. §103(a) as being unpatentable over **Yano et al.** in view of **Boyce** (USP 6,490,705). As will be set forth in detail below, it is submitted that the presently amended claims patentably distinguish over the previously cited prior art.

Claims 1 and 14 have been amended hereby to further clarify the invention. More specifically, claim 1 has been amended to clarify that packets corresponding to respective frames are transmitted sequentially to the network during a period between when the encoder ends writing real-time encoded data corresponding to a frame to the storage means and when the encoder begins real-time encoded data corresponding to a next frame to the storage means. Method claim 14 has been amended similarly.

The above-noted amendment is responsive to the Examiner's comments set forth in the Examiner's Answer mailed January 18, 2006. More specifically, page 6, lines 11-15 of the

Examiner's Answer states "The transmission time for 'controlling transmission timing to transmit divided packets to a network…' includes the completion of the next frame write not the start as argued by appellant." Accordingly, claim 1 has been amended to clarify that the period during which respective frames are transmitted to the network does not include completion of the next frame write time.

In contrast to presently claimed invention, **Yano et al.** discloses a data generator 1001-11 that determines the capture timing of video data of a next frame to be "just in time with" the frame transmission timing designated by a rate adjustor 1001-13 (see column 12, lines 29-35). Thus, at best, **Yano et al.** teaches that frames are transmitted to the network at the same time as video data is captured.

Further, it is respectfully submitted that **Yano et al.** also does not disclose or suggest the writing data from an encoder to a storage means, and therefore cannot disclose or suggest transmission timing to a network that is based on when an encoder writes encoded to a storage means. More specifically, during the prosecution of this application, the Examiner has never pointed out where **Yano et al.** explicitly or implicitly disclose a storage means, as claimed, to store encoded data output from the encoder of **Yano et al.** In fact, the only place at which the Examiner has specifically addressed the claimed "storage means" is in the Advisory Action mailed July 13, 2005 in which the Examiner states "The [cited] passage [s]ets forth video capture, which would include the interval to [encode] and store the frame." Thus, because the Examiner has not pointed out where the "storage means" is specifically disclosed in **Yano et al.**, it is apparently the Examiner's position that the storage means is inherently a part of **Yano et al.**

Therefore, the Examiner is respectfully requested to point out where **Yano et al.** discloses

the claimed storage means by pointing out an element corresponding to the storage means. If it is

the Examiner's position that the storage is an inherent element of **Yano et al.**, then the Examiner

is respectfully requested to provide extrinsic evidence that the **Yano et al.** necessarily includes

the claimed "storage means", as required by the Manual of Patenting Procedure (MPEP) §2112.

In this connection, it is submitted that the **Yano et al.** system is a system that transmits

burst data *directly to a network*, temporarily occupying a network band, with the result that

packet collision and packet loss tend to occur and transmission efficiency deteriorates.

For all the reasons set forth above, it is respectfully submitted that independent claims 1

and 14 patentably distinguish over **Yano et al.** Further, dependent claims 2 and 3, which depend

from claim 1, also patentably distinguish over the combination of **Yano et al.** and **Boyce** for the

same reasons set forth above with respect to claim 1.

New claim

New claim 34 has been added by the present Amendment. New claim 34 is similar to

claim 1, except it defines the packets as being transmitted to the network based on a

determination of the time during which the encoder writes frame data to the storage means and a

time between frames. Support for new claim 34 is provided, e.g., in formula (5) on page 14 of

the specification.

As described in columns 14 and 15 of **Yano et al.,** frame transmission timing is

determined based on various factors, such as network buffer data volume (BUFcur), frame size,

and the reception rate in the receiver (Rrecv). See, e.g., col. 15, lines 57-60). However, **Yano et al.** does not disclose or suggest controlling transmission timing to a network with a transmission timing and control means that controls transmission timing to the network based on a determination of the time during which an encoder writes frame data to a storage means and a time between frames. Please note, new claim 34 is not defined in terms of a time during which packets are transmitted.

Accordingly, it is submitted that new claim 34 patentably distinguishes over the cited prior art for at least the above reasons.

CONCLUSION

In view of the foregoing amendments and accompanying remarks, it is submitted that all pending claims are in condition for allowance. A prompt and favorable reconsideration of the rejection and an indication of allowability of all pending claims are earnestly solicited.

If the Examiner believes that there are issues remaining to be resolved in this application, the Examiner is invited to contact the undersigned attorney at the telephone number indicated below to arrange for an interview to expedite and complete prosecution of this case.
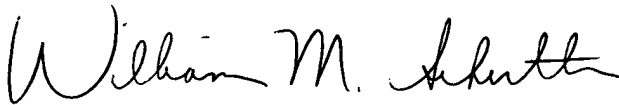
If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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